

DALY, CROWLEY &amp; MOFFORD, LLP

Telephone: 781-401-9988

Facsimile: 781-401-9966

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Date: December 4, 2003

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Deliver To: Examiner Bernard E. Souw  
T.C./A.U.: 2881

From: Christopher S. Daly, Esq.

Company: USPTO

Facsimile Number: 703-872-3919

Telephone Number: 703-305-0149

## MESSAGE

RE:

U.S. Patent Application of David M. Pepper and Dennis C. Jones

Entitled: ROBUST INFRARED COUNTERMEASURE SYSTEM AND METHOD

Application No. 09/837,733

Filing Date: April 18, 2001

DCM Case No: RTN-154PUS

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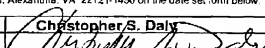
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Client Matter No.: RTN-154PUS

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<b>TRANSMITTAL FORM</b>  (to be used for all correspondence after initial filing)	Application Number	09/837,733
	Filing Date	April 18, 2001
	First Named Inventor	David M. Pepper
	Art Unit	2881
	Examiner Name	Bernard E. Souw
	Attorney Docket Number	RTN-154PUS
Total Number of Pages In This Submission	3	

ENCLOSURES (Check all that apply)		
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Assignment Papers (for an Application) <input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____	<input type="checkbox"/> After Allowance Communication to Technology Center (TC) <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): Return Postcard: Letter Under MPEP 705.05(g) and 710.06
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SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT		
Firm or Individual	Christopher S. Daly	Reg. No. 37,303
Signature	Daly, Crowley & Mofford, LLP	
Date		

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I hereby certify that this correspondence is being submitted via facsimile to 703-872-9313, Examiner Bernard E. Souw, T.C./A.U. 2881, Commissioner for Patents, Alexandria, VA 22121-1450 on the date set forth below.		
Typed or printed	Christopher S. Daly	Date
Signature		12/4/03

This collection of information is required by 37 CFR 1.5. The information is required as soon as retain a patent by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

PATENT  
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No. : 09/837,733  
Applicant : David M. Pepper et al.  
Filed : April 18, 2001  
T.C./A.U. : 2881  
Examiner : Bernard E. Souw

Confirmation No.: 9083

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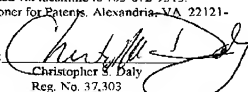
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Examiner Bernard E. Souw, T.C./A.U. 2881, Commissioner for Patents, Alexandria, VA 22121-1450 on the date set forth below.

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Date of Signature  
and Mail Deposit

By:

  
Christopher S. Daly  
Reg. No. 37,303

Commissioner for Patents  
P. O. Box 1450  
Alexandria, VA 22313-1450

Sir:

LETTER UNDER MPEP 707.05(g) AND 710.06

On November 13, 2003, Applicant's representative received an Office Action dated November 10, 2003, in connection with the above-identified patent application

On Page 3, paragraph 5 of the Office Action, the Examiner relied on a reference and provided the following citation: "Arimoto et al. (SPIE Proceedings Vol. 2990, Free Space Laser Communications Technologies IX, San Jose, CA, February 1997)."

Applicant has reviewed the Office Action and all of the papers included with the Office Action but does not find a reference with the citation provided by the Examiner. Also, this

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reference is not listed in any form PTO 1449 submitted by Applicant, nor on any form PTO-892 supplied by the Examiner. Applicant thus submits that the Examiner has either provided an incorrect citation of this reference or the reference was omitted from the Office Action mailed to the Applicant.

Accordingly, Applicant respectfully requests that the Examiner either: (1) provide the correct citation; or (2) provide a copy of the omitted reference. Also, in accordance with MPEP 710.06, Applicant requests that the Examiner re-start the previously set period for reply to run from the date the error is corrected.

If the Examiner has any questions concerning this letter or this application, he is respectfully invited to contact the undersigned attorney.

In the event any additional fee is required, please charge such amount to the Patent and Trademark Office Deposit Account No. 50-0845.

Dated: 12/4/03

Respectfully submitted,

DALY, CROWLEY &amp; MOFFORD, LLP

By: 

Christopher S. Daly  
Reg. No. 37,303  
Attorney for Applicant(s)  
275 Turnpike Street, Suite 101  
Canton, MA 02021-2354  
Tel.: (781) 401-9988, ext. 11  
Fax: (781) 401-9966

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